

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANNETTE E. CHAPPARO,

Plaintiff,

v.

MICHAEL ASTRUE,<sup>1</sup>  
Commissioner of Social Security,

Defendant.

Civil Action

No. 04-5246

**MEMORANDUM/ORDER**

August 8, 2007,

In a previous Memorandum and Order, I made a preliminary finding that plaintiff Annette E. Chapparo's petition for attorney fees (Docket No. 18, filed June 8, 2007) was filed out of time, and I gave Chapparo until July 31, 2007 to show cause why her petition for fees should not be denied as untimely. *See* Memo. & Order of July 6, 2007 (Docket No. 20, filed July 9, 2007). On July 31, 2007, Chapparo filed her Response to Honorable Court's Request to Show Cause (Docket No. 21). In her July 31, 2007 response, Chapparo does not contest the determination that her petition for fees was filed after the

---

<sup>1</sup> On February 12, 2007, Michael J. Astrue became the Commissioner of Social Security. Pursuant to the Federal Rules of Civil Procedure, Astrue was substituted for former Commissioner Jo Anne B. Barnhart as the defendant in this suit. *See* Fed. R. Civ. P. 25(d)(1); 42 U.S.C. § 405(g).

statutory deadline, but she contends that the petition should nevertheless be deemed timely pursuant to principles of equitable tolling.

However, upon consideration of Chapparo's filing, along with the factors discussed in my July 6, 2007 Memorandum, I find that the failure of Chapparo's counsel to anticipate that the Commissioner would seek to enforce the filing deadline in this case does not provide a sufficient basis to justify equitable tolling. Accordingly, it is hereby **ORDERED** that plaintiff's Petition for Fees (Docket No. 18) is **DENIED** as untimely.

BY THE COURT:

/s/ Louis H. Pollak

---

Pollak, J.